

HOUSE BILL 1792

By West

AN ACT to amend Tennessee Code Annotated, Section
29-34-201 and Title 39, relative to self defense.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-11-611, is amended by deleting the section in its entirety and by substituting instead the following:

§ 39-11.611.

(a) As used in this section, "protected zone" means:

(1) A person's home, residence, and any other place where the person or the person's immediate family resides, whether temporarily or permanently, mobile or immobile, including but not limited to houses, apartments, motel rooms, recreational vehicles, and boats, and includes all outbuildings, including stand alone garages, related thereto and the curtilage to any of the foregoing.

(2) A vehicle, including a means a conveyance of any kind, whether or not motorized, that is suitable to transport people or property on the state road system and shall include a zone within twenty one feet of such vehicle.

(b) A person is justified in threatening or using force against another person when, and to the degree, the person reasonably believes the force is immediately necessary to protect against the other's use or attempted use of unlawful force. The person must have a reasonable belief that there is an imminent danger of death or serious bodily injury. The danger creating the belief of imminent death or serious bodily injury must be real, or honestly believed to be

real at the time, and must be founded upon reasonable grounds. There is no duty to retreat before a person threatens or uses force. A person may have been mistaken, based on his perception of the circumstances, as to the extent of the actual danger, but if he acts in self-defense from an honest, even though mistaken, belief as to the extent of danger he will not be held criminally liable for his action.

(c) Any person using force intended or likely to cause death or serious bodily injury within the person's protected zone is presumed to have held a reasonable fear of imminent peril of death or serious bodily injury to self, family or a member of the household or others legally there when that force is used against another person, not a member of the family or household, who unlawfully enters or is unlawfully entering or has unlawfully entered the protected zone and the person using the force knew or had reason to believe that an unlawful entry occurred.

(d) The threat or use of force against another is not justified if the person consented to the exact force used or attempted by the other individual.

(e) The threat or use of force against another is not justified if the person provoked the other individual's use or attempted use of unlawful force, unless:

(1) The person abandons the encounter or clearly communicates to the other the intent to do so; and

(2) The other nevertheless continues or attempts to use unlawful force against the person.

(f) The threat or use of force against another is not justified to resist a halt at a roadblock, arrest, search, or stop and frisk that the person knows is being made by a law enforcement officer, unless:

(1) The law enforcement officer uses or attempts to use greater force than necessary to make the arrest, search, stop and frisk, or halt; and

(2) The person reasonably believes that the force is immediately necessary to protect against the law enforcement officer's use or attempted use of greater force than necessary.

(g) A law enforcement agency shall use standardized procedures for investigating the use of force that constitutes a circumstance of justifiable use of force under this section or § 39-11-612.

(1) The standardized procedures for investigating non-law enforcement use of force circumstances under this section shall be designed to result in investigations that are of a quality that meets or exceeds investigatory standards used in investigations of use of force by law enforcement personnel.

(2) A law enforcement agency may not arrest a person for using force which may be justifiable under this section unless it determines that there is probable cause that the force that was used was unlawful based upon the factors set forth in this section.

(3) A court shall award reasonable attorney's fees, court costs, and all expenses against the arresting agency incurred by a person in defense of any criminal action brought against such person based upon the person's use of force if the court finds that the defendant was justified in using such force pursuant to §§ 39-11-611- 39-11-614, or § 29-34-201 and that the law enforcement investigatory requirements of this section have not been met.

(g) A person who uses force as permitted in §§ 39-11-611- 39-11-614, or § 29-34-201, is justified in using such force and is immune from civil liability for the use of such force.

(h) The court shall award reasonable attorney's fees, court costs, compensation for loss of income, and all expenses incurred by a person in defense of any civil action brought against such person based upon the person's use of force if the court finds that the defendant was justified in using such force pursuant to §§ 39-11-611--- 39-11-614, or § 29-34-201.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.